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TRASK BRITT				
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EXAMINER				
JONES, SCOTT E				
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3714				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

### Office Action Summary

**Application No.**

10/731,701

**Applicant(s)**

VLAZNY ET AL.

**Examiner**

Scott E. Jones

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 9-14, 16-29, 32, 33 and 36-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-14, 16-29, 32-33, and 36-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed on 10/31/08 in which applicant amends claims 1-3, 6, 7, 14, 24-26, and 29, cancels claims 8, 15, 30, 31, 34, and 35, adds new claims 59-63, and responds to the claim rejections. Claims 1-7, 9-14, 16-29, 32-33, and 36-63 are pending.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/08 has been entered.

### ***Claim Objections***

3. Claims 62-63 are objected to because of the following informalities: because claim 62 depends upon itself. Claim 63 inherits the deficiency of claim 62. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-3, 5-7, 9-10, 12-14, 16-20, 23-29, 32, 36-49, 51-55, 58, and 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over NYRA One Account (“NYRA”).

NYRA discloses methods and devices for betting at work, at the track, or at home. NYRA allows a card holder to access funds easily by making fast and safe deposits and withdrawals. Card holders insert cards in “Sam machines” or use portable “Tiny Tims” to access funds to make wagers. Card holder are requested for a PIN for verification. Funds may also be transferred to a card holder’s account from a Visa, MasterCard, or Discover Card, for instance. Moreover, a card holder may withdraw funds at the track through a Sam machine at any time. The Sam machines and Tiny Tims display a card holders balance on the account. The Sam machines are a convenient way to wager without waiting in line at the pari-mutuel windows. The Sam machines may also be utilized with as a ticketless system whereby a card holder’s account is credited or debited accordingly without the inconvenience of waiting in line to cash tickets. Furthermore, a card holder’s account is immediately credited or debited after the race on which a wager has been made is made official.

Regarding Claims 1, 24, 40, and 61-63:

A cashless method of pari-mutuel wagering comprising:

- providing a gaming terminal (Sam machine or Tiny Tim) at an establishment (Race track, at home, or at work), the gaming terminal configured for a player to place a pari-mutuel wager on an event (pp. 1-13);
- presenting a house card (NYRA card) associated with a monetary account (NYRA account) to a card reader (Sam machine or Tiny Tim) in communication with the gaming terminal (pp. 1-13);

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- depositing funds into the monetary account at the gaming terminal using at least one vehicle selected from the group consisting of cash, check, debit charge, credit card charge, and direct deposit (pp. 1-13). Funds may also be transferred to a card holder's account from a Visa, MasterCard, or Discover Card, for instance. This occurs at a remote computer; and
- accessing at least a portion of funds (making a wager or withdrawal off less than the full balance or viewing the displayed balance) of the monetary account for use at the gaming terminal (pp. 1-13);
- placing a pari-mutuel wager at the gaming terminal on an event using the at least a portion of the funds of the monetary account (pp. 1-13); and

Regarding Claims 3 and 26:

- The method according to claim 1, wherein placing the purchase using the house card is effected after placing the pari-mutuel wager (pp. 1-13). Alternatively, a player may withdraw funds after placing a pari-mutuel wager in order to purchase refreshments while at the race track.

Regarding Claim 5:

- The method according to claim 1, further comprising using the house card to access an informational display (display on Sam machine or Tiny Tim) at the establishment (pp. 1-13).

Regarding Claim 6:

- The method according to claim 1, wherein depositing funds into a monetary account at the gaming terminal comprises additional funds to the monetary account (pp. 1-13).

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Regarding Claims 7 and 32:

- The method according to claim 1, wherein placing a pari-mutuel wager at the gaming terminal on an event using at least a portion of the funds of the monetary account comprises sending a request for allocation of the at least a portion of funds to a remote computer in communication with the card reader (pp. 1-13). Funds may also be transferred to a card holder's account from a Visa, MasterCard, or Discover Card, for instance. This occurs at a remote computer.

Regarding Claims 9, 28, and 52:

- The method according to claim 1, further comprising updating the monetary account with winnings from a result of the pari-mutuel wager (pp. 1-13). A card holder's account is immediately credited or debited after the race on which a wager has been made is made official.

Regarding Claims 10 and 54:

- The method according to claim 1, further comprising selecting the house card from the group consisting of a smart card, a magnetic strip card, a radio frequency identification transmitter, and a card encoded with a bar code or other coded indicia (pp. 1-13).

Regarding Claims 13 and 53:

- The method according to claim 1, further comprising verifying the identity of the player prior to the player accessing the at least a portion of funds (pp. 1-13). A player inputs at least a PIN to verify their identity.

Regarding Claim 14:

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- The method according to claim 12, further comprising using a personal identification number, a key, a smart card, an electronic button for entering a personal identification number in a user interface of the gaming terminal, a finger print imaging device, or a retinal scan to verify the identity of the player (pp. 1-13). A player inputs at least a PIN to verify their identity.

Regarding Claims 16 and 36:

- The method according to claim 1, further comprising selecting the event to be a sporting event (horse race) (pp. 1-13).

Regarding Claims 17 and 37:

- The method according to claim 1, further comprising forwarding information regarding an outcome of the pari-mutuel wager over a communication link (pp. 1-13). The result of the outcome of the pari-mutuel wager is forwarded over a communication link whether directly to a Sam machine, a Tiny Tim, or over a phone.

Regarding Claims 20 and 55:

- The method according to claim 1, further comprising selecting the house card to be associated with a first monetary account and with a second monetary account associated with a debit card accounts or a credit card account, and using the at least a portion of the funds from the first monetary account to place the pari-mutuel wager (pp. 1-13).

Regarding Claims 23 and 58:

- The method according to claim 20, further comprising transferring funds between the first monetary account and the second monetary account (pp. 1-13).

Regarding Claim 27:

- The method according to claim 24, further comprising selecting the gaming terminal to include the card reader (pp. 1-13).

Regarding Claim 29:

- The method according to claim 24, further comprising removing the credit card or the debit card prior to placing the pari-mutuel wager.

Regarding Claim 41:

- The method according to claim 40, wherein inputting the unique identifier (Account number or PIN) comprises inputting an account number using a touch tone telephone (pp. 1-13).

Regarding Claim 42:

- The method according to claim 41, further comprising inputting a unique secondary identifier (Telebet Access Code (TAC)) number using the touchtone telephone (pp. 1-13).

Regarding Claim 43:

- The method according to claim 40, wherein placing the pari-mutuel wager over the communication link comprises inputting the pari-mutuel wager using a touch tone telephone (pp. 1-13).

Regarding Claim 44:

- The method according to claim 40, wherein placing the pari-mutuel wager over the communication link comprises inputting a code corresponding to a specific pari-mutuel gaming establishment (pp. 1-13).

Regarding Claim 48:



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- The method according to claim 40, further comprising selecting the monetary account to be associated with a house card (pp. 1-13).

Regarding Claim 49:

- The method according to claim 48, further comprising adding funds to the monetary account associated with the house card (pp. 1-13).

Regarding Claim 51:

- The method according to claim 40, further comprising selecting the monetary account to be associated with a debit or credit card (pp. 1-13).

NYRA appears to lack explicitly disclosing:

Regarding Claims 1, 24, and 40:

- Placing a cashless purchase other than a pari-mutuel wager using the house card at the establishment to debit at least another portion of the funds of the monetary account.

Regarding Claim 12:

- The method according to claim 1, further comprising removing the house card prior to placing the pari-mutuel wager.

Regarding Claims 18 and 38:

- The method according to claim 17, wherein forwarding information comprises sending the information using text messaging.

Regarding Claims 19 and 39:

- The method according to claim 17, wherein forwarding information comprises sending the information using email.

Regarding Claim 45:

- The method according to claim 40, wherein inputting the unique identifier comprises inputting an account number into a user interface of a website that communicates with the remote computer.

Regarding Claim 46:

- The method according to claim 45, further comprising inputting a unique secondary identifier into the user interface of the website that communicates with the remote computer.

Regarding Claim 47:

- The method according to claim 45, further comprising placing a purchase of at least one item sold by the establishment.

Regarding Claims 1, 24, and 40, NYRA discloses regarding wagers the Sam machines may also be utilized with as a ticketless system whereby a card holder's account is credited or debited accordingly without the inconvenience of waiting in line to cash tickets. Moreover, NYRA discloses withdrawals can be made from said account to provide a voucher which can be used to place additional wagers without obtaining cash or to obtain cash to purchase other goods, such as meals from the clubhouse restaurants. Cashless debiting systems for purchasing goods were notoriously well known at the time of Applicant's invention. Moreover, NYRA gives the rationale why one would want to use such a system-to credit or debit the card holder's account accordingly without the inconvenience of waiting in line to cash tickets. Thus, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to use the cashless debiting system for both wagering and dining functions. Doing so would make the

transactions free from human error handling money and reduce overall labor costs for the casino or racetrack.

Regarding Claims 2 and 25, NYRA does not appear to disclose further comprising placing a cashless purchase other than a pari-mutuel wager using the house card at the establishment to debit at least another portion of the deposited funds. However, it would have been obvious at the time of applicant's invention to allow patrons to make cashless purchases on other goods than pari-mutuel wagering. A gambling establishment would be motivated to do so such that there is only one type of currency or transaction type taking place at the gambling location, thereby streamlining accounting and check out procedures to facilitate quick customer service turnarounds for each transaction.

Regarding Claim 12, it would have been obvious at the time of Applicant's invention to allow removing the house card prior to placing the pari-mutuel wager (that is, if NYRA does not disclose this feature, which it may). One would have been motivated to remove the house card from the Sam machine because players may forget the card and leave it in the machine.

Regarding Claims, 18, 19, 38, and 39, NYRA does disclose forwarding information via a telephone. Thus, it would have been obvious at the time of Applicant's invention to use state of the art technology to convey information via other means by well-known conduits, such as email and text messaging.

Regarding Claims 45-47, a similar system is taught in NYRA; however, it is directed to a telephone system. However, it would have been obvious at the time of Applicant's invention to implement this system on a website. One would be motivated to do so to bring NYRA into the state of technology available at the time of Applicant's invention.

Regarding claims 24, and 59-60, the house card comprising an anonymous token card in which the identity of the player is not known to the establishment is not disclosed by NYRA. However, it would have been obvious at the time of applicant's invention to implement an anonymous token card in NYRA. One would be motivated to do so because some patrons prefer a more discrete playing experience and do not want perks associated with gambling amounts or other literature mailed to a home address, telephone number, or personal email account.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over NYRA in view of Black (U.S. 6,307,956).

NYRA discloses that as discussed above in claims 1-3, 5-7, 9-10, 12-14, 16-20, 23-29, 32, 36-49, 51-55, 58, and 59-63. NYRA appears to lack explicitly disclosing:

Regarding Claim 4:

- The method according to claim 1, further comprising using the house card to access a secure area at the establishment.

Black teaches, for example, the use of the identity verification system in a hotel casino complex. The system comprises biometric registration upon entry into the hotel-casino, biometric access to a guest room, biometric purchases on-site within the complex such as restaurants, lounges, boutique shops, and the like, and biometric play of slot machines, biometric play at gaming tables.

Although Black teaches a verification system that is employed as an improvement over cards, Black teaches that cards have been used in the past for such systems. Thus, it would have been obvious at the time of applicant's invention to utilize a card to access a secure area of the establishment, such as a hotel room, wherein the card could also be used to make purchases.

One would be motivated to do so players would not have to carry multiple cards in their wallet that are easily lost or stolen.

7. Claims 11 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over NYRA in view of Walker (U.S. 6,558,255).

NYRA discloses that as discussed above in claims 1-3, 5-7, 9-10, 12-14, 16-20, 23-29, 32, 36-49, 51-55, 58, and 59-63. NYRA does disclose a minimum initial deposit to obtain a house card. NYRA appears to lack explicitly disclosing:

Regarding Claims 11 and 50:

- The method according to claim 1, further comprising selecting the house card to have a predominated amount of funds.

In an analogous reference, Walker teaches of a prepaid casino card that may be embodied as a smart card or a general purpose debit card programmed with predefined amount that expires in a predetermined time period. It would have been obvious at the time of Applicant's invention to utilize Walker's predefined card in NYRA. One would be motivated to modify NYRA's system to have predefined cards in order for players to quickly purchase a house card or place a specific balance on a house card in order to wager on a future race.

8. Claims 21, 22, 56, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over NYRA in view of Walker (U.S. 6,379,248).

NYRA discloses that as discussed above in claims 1-3, 5-7, 9-10, 12-14, 16-20, 23-29, 32, 36-49, 51-55, 58, and 59-63. NYRA appears to lack explicitly disclosing:  
Regarding Claims 21 and 56:

- The method according to claim 20, further comprising crediting the first monetary account when a purchase is placed using funds from the second monetary account.

Regarding Claims 22 and 57:

- The method according to claim 21, further comprising selecting the funds from the first monetary account to be only available for use at the establishment.

Walker teaches a gaming device includes a plurality of balances. The gaming device receives monetary input, such as currency or a transfer from an account, and in turn increases one or more balances. The balance increased depends on criteria such as the amount of monetary input or the source of monetary input (e.g. from a casino account). Players may draw wager amounts from different balances, and add award amounts to the balances. Incentives are provided for using the different balances. For example, different balances may have different payout schedules, different probability schedules, or both.

Thus, it would have been obvious at the time of Applicant's invention to incorporate Walker's features in NYRA. One would be motivated to do so because using multiple accounts encourages players to wager by offering incentives to do so. Consequently, casino or race track operator's profits are increased.

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over NYRA in view of Foodman (U.S. 6,547,131).

NYRA discloses that as discussed above in claims 1-3, 5-7, 9-10, 12-14, 16-20, 23-29, 32, 36-49, 51-55, 58, and 59-63. NYRA's use of a credit card to add to a card holder's balance likely anticipates this feature; however, NYRA appears to lack explicitly stating:

Regarding Claim 33:

- The method according to claim 32, wherein accessing the at least a portion of funds further comprises the remote computer forwarding the request to an electronic funds transfer system.

In an analogous reference, Foodman teaches of a gaming machine including an apparatus necessary to send requests to and receive authorizations from an EFT system which are limited to a preset amount. That preset amount can be converted to plays on a gaming machine. Consequently, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to incorporate Foodman's system in NYRA. One would be motivated to do so such that a player could access a credit on a credit card to so that a player could continue to wager if that player is short on cash.

#### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-58 have been considered but are moot in view of the claim amendments and the similar ground(s) of rejection.
2. Applicant alleges newly amended claim 1 is not rendered obvious by the outstanding rejection because NYRA does not teach or suggest, "depositing funds into the monetary account at the gaming terminal using at least one vehicle selected from the group consisting of cash, check, debit charge, credit card charge, and direct deposit." However, the Examiner respectfully disagrees and notes such limitation was addressed in the previous Office Action with regards to claim 7. The Examiner contends this limitation is taught at pp. 1-13 of NYRA. Funds may also be transferred to a card holder's account from a Visa, MasterCard, or Discover Card, for instance. This occurs at a remote computer.

3. The remaining arguments appear related to the newly added claim limitations and are therefore addressed above in the claim rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott E. Jones/  
Primary Examiner, Art Unit 3714

SEJ